IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 5942 of 2007(G)

PETITIONER:

V.K.KRISHNAN NAIR, SECURITY GUARD (FORMER), REGIONAL CANCER CENTRE, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM, RESIDING AT `ROHINI', U.P.7/134, ULLOOR GRAMAM, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM-11.

BY ADV. SRI.G.SASIDHARAN CHEMPAZHANTHIYIL.

RESPONDENTS:

1. **THE DIRECTOR, REGIONAL CANCER CENTRE, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.**
2. **THE EXECUTIVE COMMITTEE, REGIONAL CANCER CENTRE, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.**
3. **THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY, HEALTH & FAMILY WELFARE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

BY GOVT. PLEADER SRI. P. NANDAKUMAR, ADV. SRI. K.R. RADHAKRISHNAN NAIR, SC FOR R1 & R2.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.5942/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER NO. 1587/86/ADM.II/2005/RCC DTD. 03/08/2005 OF THE R.1.

EXT.P.2: COPY OF THE ORDER NO. 1587/SG/2002/ADM.II/RCC DTD. 19/09/2005 ISSUED BY THE R.1.

EXT.P.3: COPY OF THE MEMO NO. 1587/SG/ADMN.II/2005/RCC/404 DTD. 22/11/2005 ISSUED BY THE ENQUIRY OFFICER.

EXT.P.4: COPY OF THE ORDER NO. 1587/S/ADM.II/2006/RCC DTD. 25/04/2006 ISSUED BY THE R.1.

EXT.P.5: COPY OF THE APPEAL DTD. 10/05/2006 FILED BEFORE THE R.2.

EXT.P.6: COPY OF THE JUDGMENT DTD. 26/08/2006 IN W.P.(C). NO. 16933/2006-N OF THIS HONOURABLE COURT.

EXT.P.7: COPY OF THE ORDER NO. 2922/ADMN.1/07/RCC DTD. 18/01/2007 ISSUED BY THE R.1.

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prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 5942 OF 2007-G

JUDGMENT

The petitioner was an employee of the Regional Cancer Centre, Thiruvananthapuram. The punishment of compulsory retirement was imposed on him, by Ext.P4 order by the Director. The petitioner submitted Ext.P5 appeal before the Executive Committee of the R.C.C. The Committee considered and appeal and dismissed it by Ext.P7 order. The Director, who is the original authority, was a member of the Executive Committee. He also acted as its convenor. So, the petitioner attacks Ext.P7 order, on the ground of violation of the principles of natural justice.

2. I heard the learned standing counsel for respondents 1 and 2 and the learned Government Pleader for the 3rd respondent. The learned standing counsel points out that the petitioner was only a temporary employee and the allegations against him are very serious. But, he does not dispute that the Director was also a member of the Executive Committee, which considered the petitioner's appeal. In view of the admitted fact that the original authority participated in the appellate proceedings, Ext.P7 is vitiated. Accordingly, it is quashed. Ext.P5 appeal is remitted to the 2nd

respondent Executive Committee. It shall consider and pass orders on Ext.P5 in accordance with law, after affording an opportunity of being heard to the petitioner within two months from the date of receipt of a copy of this judgment. Needless to say, the 1st respondent shall not participate in the proceedings of the 2nd respondent, while Ext.P5 appeal is considered.

The Writ Petition is disposed of as above.

29th May, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/